

PROCEDURES FOR ADOPTION OF A HOME-RULE CHARTER

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Alaska Department of Community and Economic Development
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Sections 29.10.010 – 29.10.090 of the Alaska Statutes set out requirements for adoption of a home-rule charter for a first-class city, first-class borough, or second-class borough.

Before any formal proceedings for such are initiated, it should be determined through careful and objective analysis that:

- (1) there is a compelling need for home-rule status; and
- (2) adequate resources will be available to the prospective charter commission to draft a proper charter.

The procedures in State law for adoption of a home-rule charter are summarized in this document; a copy of the law is attached.

PROCEDURES AT A GLANCE ...

- ❖ Charter commission election called by resolution or petition.
- ❖ At least seven qualified commission candidates must be nominated.
- ❖ Voters cast ballots on commission formation and seven candidates.
- ❖ If voters approve formation, commission must prepare charter proposal within one year.
- ❖ Election on proposed charter.
- ❖ If voters approve charter, it takes effect; otherwise commission must prepare a second charter proposal within one year of election on first proposal.
- ❖ Election on second proposed charter.
- ❖ If voters approve charter, it takes effect; otherwise commission is dissolved.

Attachments

- **Appendix A** – AS 29.10.010 – 29.10.090 (procedures for adoption of a home-rule charter by an existing general law municipality).
- **Appendix B** – AS 29.26.110 – 29.26.130 (requirements referenced in AS 29.10.010 for a petition calling for a charter commission election).

STEP 1 – CALL FOR ELECTION OF CHARTER COMMISSION.

The first step is to call for the election of a seven-member commission to draft the charter. The call may be initiated by the governing body or by voters as noted below:

Option A. Resolution of the Governing Body.

The city council of a first-class city or the assembly of a first-class or second-class borough may adopt a resolution calling for the election of a charter commission.

Option B. Petition from the Voters.

A petition from voters involves five incremental steps summarized below in (1)-(5).

(1) Application for Petition.

The petition process starts by filing an application with the municipal clerk. The application requests a petition for a charter commission election. The application must include the name and address of a contact person and an alternate to whom all

HOME-RULE FACTS



The City of Nenana is last general law city to adopt a home-rule charter. It did so in 1982.

correspondence relating to the matter may be sent.

The application must be signed by at least 10 voters who will sponsor the petition. An additional sponsor may be added at any time before the petition is filed by submitting the name of the sponsor to the clerk.

(2) Review of the Application by the Municipal Clerk.

The municipal clerk must review the application within two weeks of its receipt. If the clerk finds that the application is in proper form, it must be certified as such.

(3) Preparation of the Petition by the Municipal Clerk.

Within two weeks after certification of an application, the municipal clerk must prepare the petition form. Each copy of the petition form must contain the following six elements:

- (a) the question, "Shall a charter commission be elected to prepare a proposed charter?";
- (b) the date on which the petition is issued by the clerk;
- (c) notice that signatures must be secured within 90 days after the date the petition is issued;
- (d) spaces for each signature, the printed name of each signer, the date each signature is affixed, and the residence and mailing addresses of each signer;
- (e) a statement, with space for the sponsor's sworn signature and date of signing, that the sponsor personally circulated the petition, that all signatures were affixed in the presence of the sponsor, and that the sponsor believes the signatures to be those of the persons whose names they purport to be; and

(f) space for indicating the total number of signatures on the petition.

If a petition form consists of more than one page, each page must contain the

HOME-RULE FACTS

There are 20 first-class cities in Alaska – all of which may become home-rule cities without alteration of their fundamental duties.

The 20 first-class cities are listed below in descending order of population in 2003.

City	2003 Population
Wasilla	6,715
Homer	4,893
Barrow	4,417
Unalaska	4,388
Soldotna	4,059
Nome	3,448
Dillingham	2,373
Craig	1,174
Sand Point	947
Hoonah	851
Klawock	851
Skagway	845
Galena	763
King Cove	737
Kake	682
Saint Mary's	585
Hydaburg	370
Seldovia	300
Tanana	290
Pelican	113

question whether the charter commission shall be formed.

The clerk must notify the contact person in writing when the petition form is available. The contact person is responsible for notifying sponsors. Copies of the petition form must be provided by the clerk to each sponsor who appears in the clerk's office and requests a petition, and the clerk must mail the petition to each sponsor who requests that the petition be mailed.

(4) Gathering of Signatures.

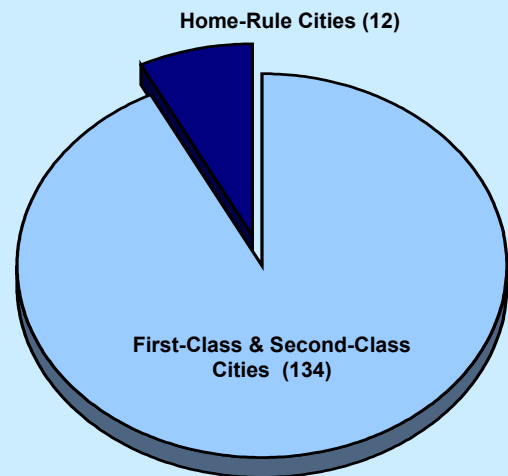
The petition must be signed by a number of voters equal to at least 15 percent of the votes cast in the last regular election in that municipality. The petition signatures must be secured within 90 days after the clerk issues the petition.



The last general law borough to adopt a home-rule charter is the Haines Borough. When the former third-class Haines Borough and the former first-class City of Haines consolidated in October 2002, the resulting government was a home-rule borough.

HOME-RULE FACTS

12 of the 146 city governments in Alaska are home-rule cities.



The sponsor must sign and date the sworn statement in the petition that the sponsor personally circulated the petition, that all signatures were affixed in the presence of the sponsor, and that the sponsor believes the signatures to be those of the persons whose names they purport to be. Signatures must be in ink or indelible pencil.

The clerk must reject illegible signatures unless accompanied by a legible printed name. Signatures not accompanied by a legible residence address must be rejected.

A petition signer may withdraw the signer's

signature on written application to the clerk before certification of the petition.

(5) Report by the Clerk to the Governing Body.

The completed petition must be submitted to the clerk who must deliver it to the governing body with a report of the number of valid signatures on the petition. No specific deadline is stated in the law, however, this part of the process generally follows that for initiative and referendum petitions. In the case of the latter, the municipal clerk must, within 10 days after the date the petition is filed:

- (1) certify whether the petition is sufficient; and
- (2) if the petition is insufficient, identify the insufficiency and notify the contact person by certified mail.

STEP 2 – ORDER OF ELECTION & CHARTER COMMISSION NOMINATIONS.

Following a proper call for an election, the governing body must schedule an election on the question of forming a charter commission. The law does not specify when the

**HOME-RULE
FACTS**

There are 113 second-class cities in Alaska; 44 of which have sufficient populations to reclassify as first-class cities and then adopt home-rule charters. Of those 44, 13 are within organized boroughs and could adopt home-rule charters without affecting their fundamental duties. The remaining 31 are in the unorganized borough. If they adopted home-rule charters, their duties would be significantly increased (e.g., education, planning, platting, and land use regulation).

election must be held, so the governing body has some discretion (of course, within reason) as to the timing of the election. If a special election is held, the date of the election must be precleared under the Federal Voting Rights Act.

Petitions to nominate charter commission candidates must be filed with the municipal clerk on or before a date fixed by the governing body.

Each charter commission candidate is nominated by a petition signed by at least 50 voters or the number of

HOME-RULE FACTS

The 13 second-class cities within organized boroughs that could reclassify as first-class cities and then adopt home-rule charters are listed below in descending order of population in 2003

City	2003 Population
Kotzebue	3,076
Houston	1,339
Selawik	821
Akutan	787
Point Hope	725
Noorvik	649
Anderson	592
Wainwright	553
Kachemak	473
Saxman	425
Nuiqsut	416
Buckland	410
Kiana	408

voters equal to 10 percent of the number of votes cast in the municipality during the last regular election, whichever is less.

A candidate must have been qualified to vote in the municipality for at least one year immediately preceding the charter commission election.

At least seven qualified charter commission candidates must be nominated; otherwise the

call for a charter commission election is void.

STEP 3 – ELECTION.

At the election, voters consider the following question, "Shall a charter commission be elected to prepare a proposed charter?" and vote for seven commission candidates.

If the question is approved, the seven candidates receiving the highest number of votes immediately organize as a charter commission.

STEP 4 – PREPARATION OF CHARTER.

Within one year, the charter commission must prepare a proposed home-rule charter. A majority of the members of the commission must sign the petition and file it with the municipal clerk.

Within 15 days, the clerk must publish the proposed

HOME-RULE FACTS

9 of the 16 organized boroughs in Alaska are home-rule boroughs.

charter and make copies available. The commission must hold at least one duly noticed public hearing on the proposed charter before the signing and filing of the charter.

STEP 5 – CHARTER ELECTION.

The proposed home-rule charter must be submitted to the voters at an election held within 30 to 90 days after the proposed charter is published.

Because the elements of a charter required under AS 29.10.030 would affect voting rights, the proposed charter must be precleared under the Federal Voting Rights Act. If the proposed charter is to be presented to the voters at a special election, the date of that election must also be precleared.

STEP 6 – CHARTER ADOPTION OR REJECTION.

If a majority of those voting in an existing municipality favor the proposed charter, the proposed charter becomes the organic law of the municipality effective on the date the election is certified. Thereafter, a court must take judicial notice of

HOME-RULE FACTS

The 31 second-class cities within the unorganized borough that could reclassify as first-class cities and then adopt home-rule charters are listed below in descending order of population in 2003

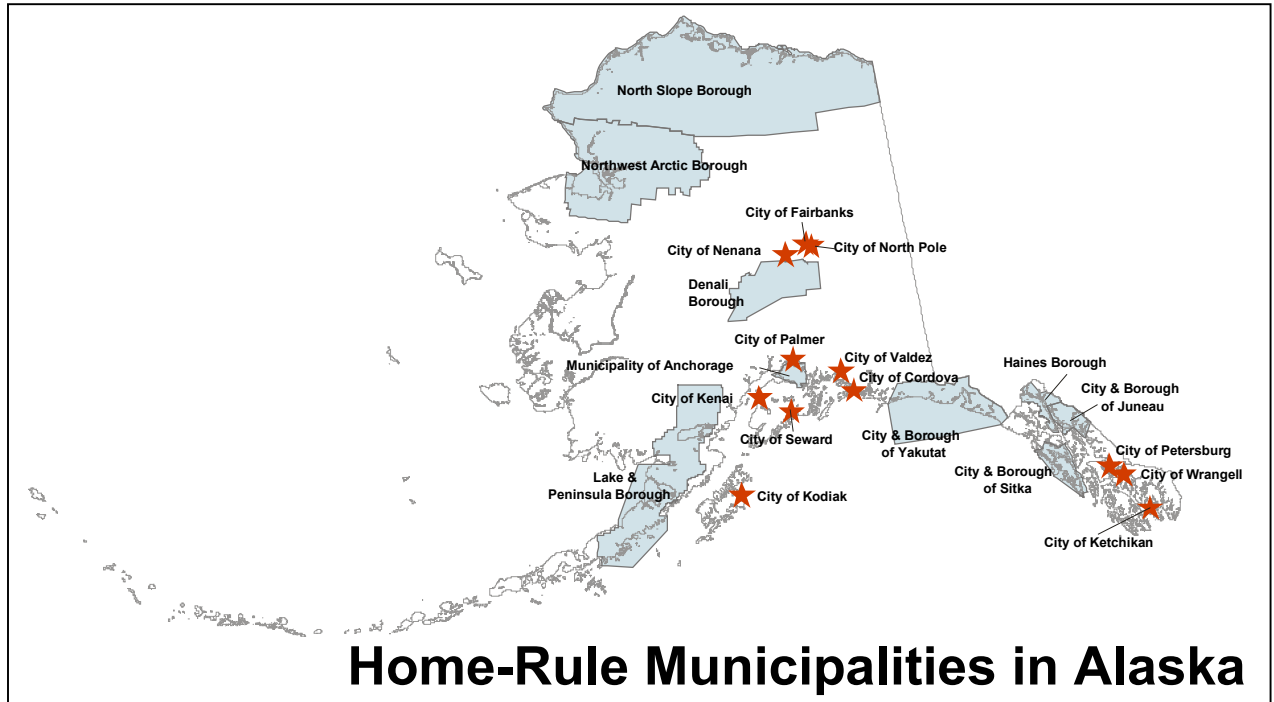
City	2003 Population
Bethel	5,899
Hooper Bay	1,115
Delta Junction	984
Chevak	884
Togiak	824
Emmonak	763
Mountain Village	750
Unalakleet	741
Kwethluk	730
Savoonga	704
Alakanuk	666
Gambell	647
Kotlik	609
Shishmaref	594
Quinhagak	579
Fort Yukon	574
Toksook Bay	572
Stebbins	570
Pilot Station	564
Aniak	551
Saint Paul	539
Angoon	505
Nunapitchuk	498
New Stuyahok	493
Thorne Bay	480
Scammon Bay	470
Chefornak	434
Napaskiak	419
McGrath	415
Saint Michael	413
Manokotak	405

the charter. The new home-rule municipality must file the indicated number of copies of the charter with the Lieutenant Governor -

two copies; (2) the Alaska Department of Community and Economic Development - two copies; (3) the district recorder - one copy; (4) the municipal clerk - one copy.

If a proposed charter is rejected, the charter commission must prepare another proposed charter to be submitted to the voters at

an election to be held within one year after the date of the first charter election. If the second proposed charter is also rejected, the charter commission is dissolved and the question of adoption of a charter is treated as if it had never been proposed or approved.



APPENDIX A

SECTIONS 29.10.010 – 29.10.090 OF THE ALASKA STATUTES (PROCEDURES FOR ADOPTION OF A HOME-RULE CHARTER BY AN EXISTING MUNICIPALITY)

Sec. 29.10.010. Municipal charter adoption. (a) A general law borough or first class city may adopt a charter for its own government.

(b) [Repealed, Sec. 31 ch 58 SLA 1994].

(c) At an incorporation, merger, or consolidation election a municipality may adopt a charter for its own government and incorporate, merge, or consolidate as a home rule city, borough, or unified municipality.

(d) A home rule municipality may adopt a new charter.

(e) A proposed charter for an existing municipality is prepared by a charter commission of seven elected members. A charter commission election is called by filing a petition with the governing body or by resolution of the governing body. The petition shall be signed by a number of voters equal to 15 percent of the votes cast in the last regular election in the municipality. The petition shall be prepared by the municipal clerk upon receipt of an application meeting the requirements of AS 29.26.110 except that instead of containing an ordinance or resolution the application shall request a charter commission election. The petition shall be prepared in accordance with AS 29.26.120, except material required under AS 29.26.120 (a)(1) and (2) shall be replaced with the question of whether a charter commission shall be formed. The signature requirements of AS 29.26.130 (a), (c), and (d) apply to the petition. The completed petition shall be submitted to the clerk who shall deliver it to the governing body with a report of the number of valid signatures determined by the clerk to be on the petition.

(f) The proposed charter for a home rule municipality to be formed by incorporation, merger, or consolidation shall be prepared by the petitioners and filed with the petition to incorporate, merge, or consolidate a home rule city, borough, or unified municipality.

Sec. 29.10.020. Model charters. The department shall prepare at least one model home rule charter for a city, borough, and unified municipality. The model charters shall be made available to persons interested in filing a petition to form a home rule municipality under AS 29.05.060 or AS 29.06.090.

Sec. 29.10.030. Initiative and referendum. (a) A home rule charter shall provide procedures for initiative and referendum.

(b) A charter may not require an initiative or referendum petition to have a number of signatures greater than 25 percent of the total votes cast in the municipality at the last regular election.

(c) A charter may not permit the initiative and referendum to be used for a purpose prohibited by art. XI, Sec. 7 of the state constitution.

Sec. 29.10.040. Charter commission candidates. (a) A candidate for a charter commission of an existing municipality shall have been qualified to vote in municipality for at least one year immediately preceding the charter commission election.

(b) A charter commission candidate is nominated by a petition signed by at least 50 voters or the number of voters equal to 10 percent of the number of votes cast in the municipality during the last regular election, whichever is less. A nomination petition shall be filed with the municipal clerk on or before a date fixed by the governing body.

(c) If at least seven nominations for qualified charter commission candidates are not filed, the petition or resolution calling for a charter commission is void and an election on the question may not be held.

Sec. 29.10.050. Charter commission election. At a charter commission election the voters of an existing municipality shall consider the question "Shall a charter commission be elected to prepare a proposed charter?" and shall elect the members of the commission. If the question is approved, the seven candidates receiving the highest number of votes immediately organize as a charter commission.

Sec. 29.10.060. Preparation of charter by charter commission. The charter commission shall, within one year, prepare a proposed home rule charter for an existing municipality. The proposed charter shall be signed by a majority of the members of the commission and filed in the office of the municipal clerk. Within 15 days, the clerk shall have the proposed charter published and make copies available. The commission shall give published notice of and hold at least one public hearing on the proposed charter before the signing and filing of the charter.

Sec. 29.10.070. Charter election. The proposed home rule charter for an existing municipality shall be submitted to the voters at an election held not less than 30 days or more than 90 days after the proposed charter is published. The proposed home rule charter for a home rule municipality to be formed by incorporation, merger, or consolidation shall be submitted to the voters at an election held under AS 29.05.110 or AS 29.06.140.

Sec. 29.10.080. Charter adoption. (a) If a majority of those voting in an existing municipality favor the proposed charter or if a majority of those voting to form a home rule municipality by incorporation, merger, or consolidation favor incorporation, merger, or consolidation, the proposed charter becomes the organic law of the municipality effective on the date the election is certified. Thereafter, a court shall take judicial notice of the charter. The new home rule municipality shall file the indicated number of copies of the charter with

- (1) the lieutenant governor - two copies;
- (2) the department - two copies;
- (3) the district recorder - one copy;

(4) the municipal clerk - one copy.

(b) At the time of voting on the proposed charter in a third class borough, voters shall vote also on whether the borough shall, on adoption of the charter, retain a combined assembly and school board or elect a separate assembly and board as otherwise provided for home rule boroughs. If a combined assembly and school board are approved at the charter election, the assembly serving at the time of the election continues to serve as the assembly and board on voter approval of the charter and until terms of assembly members expire as provided before adoption of the charter. If a separate board and assembly are approved at the charter election, a school board shall be elected in conformity with AS 14.12.030 - 14.12.100 at the next regular election, if it occurs within 90 days of the date of the charter election, or otherwise at a special election within 90 days of the date of the charter election. Expiration dates of terms of school board members elected at a special election shall coincide with the date of the regular election. Until a board is elected and qualified, the assembly continues to serve as the board.

Sec. 29.10.090. Charter rejection. (a) If a proposed charter for an existing municipality is rejected, the charter commission shall prepare another proposed charter to be submitted to the voters at an election to be held within one year after the date of the first charter election. If the second proposed charter is also rejected, the charter commission shall be dissolved and the question of adoption of a charter shall be treated as if it had never been proposed or approved.

(b) If incorporation, merger, or consolidation of a home rule municipality is rejected by the voters, the proposed charter is rejected.

APPENDIX B

SECTIONS 29.26.110 – 29.26.130 OF THE ALASKA STATUTES (REQUIREMENTS REFERENCED IN AS 29.10.010 FOR A PETITION CALLING FOR A CHARTER COMMISSION ELECTION)

Sec. 29.26.110. Application for petition. (a) An initiative or referendum is proposed by filing an application with the municipal clerk containing the ordinance or resolution to be initiated or the ordinance or resolution to be referred and the name and address of a contact person and an alternate to whom all correspondence relating to the petition may be sent. An application shall be signed by at least 10 voters who will sponsor the petition. An additional sponsor may be added at any time before the petition is filed by submitting the name of the sponsor to the clerk. Within two weeks the clerk shall certify the application if the clerk finds that it is in proper form and, for an initiative petition, that the matter

- (1) is not restricted by AS 29.26.100;
- (2) includes only a single subject;
- (3) relates to a legislative rather than to an administrative matter; and
- (4) would be enforceable as a matter of law.

(b) A decision by the clerk on an application for petition is subject to judicial review.

Sec. 29.26.120. Contents of petition. (a) Within two weeks after certification of an application for an initiative or referendum petition, a petition shall be prepared by the municipal clerk. Each copy of the petition must contain

- (1) a summary of the ordinance or resolution to be initiated or the ordinance or resolution to be referred;
- (2) the complete ordinance or resolution sought to be initiated or referred as submitted by the sponsors;
- (3) the date on which the petition is issued by the clerk;
- (4) notice that signatures must be secured within 90 days after the date the petition is issued;
- (5) spaces for each signature, the printed name of each signer, the date each signature is affixed, and the residence and mailing addresses of each signer;
- (6) a statement, with space for the sponsor's sworn signature and date of signing, that the sponsor personally circulated the petition, that all signatures were affixed in the presence of the sponsor, and that the sponsor believes the signatures to be those of the persons whose names they purport to be; and
- (7) space for indicating the total number of signatures on the petition.

(b) If a petition consists of more than one page, each page must contain the summary of the ordinance or resolution to be initiated or the ordinance or resolution to be referred.

(c) The clerk shall notify the contact person in writing when the petition is available. The contact person is responsible for notifying sponsors. Copies of the petition shall be provided by the clerk to each sponsor who appears in the clerk's

office and requests a petition, and the clerk shall mail the petition to each sponsor who requests that the petition be mailed.

Sec. 29.26.130. Signature requirements. (a) The signatures on an initiative or referendum petition shall be secured within 90 days after the clerk issues the petition. The statement provided under AS 29.26.120 (a)(6) shall be signed and dated by the sponsor. Signatures shall be in ink or indelible pencil.

(b) The clerk shall determine the number of signatures required on a petition and inform the contact person in writing. Except as provided in (e) of this section, a petition shall be signed by a number of voters based on the number of votes cast at the last regular election held before the date written notice is given to the contact person that the petition is available, equal to

(1) 25 percent of the votes cast if a municipality has fewer than 7,500 persons; or

(2) 15 percent of the votes cast if a municipality has 7,500 persons or more.

(c) Illegible signatures shall be rejected by the clerk unless accompanied by a legible printed name. Signatures not accompanied by a legible residence address shall be rejected.

(d) A petition signer may withdraw the signer's signature on written application to the clerk before certification of the petition.

(e) If the ordinance or resolution that is the subject of an initiative or referendum petition affects only an area that is less than the entire area of a municipality, only voters residing in the affected area may sign the petition. The clerk shall determine the number of signatures required on the petition and inform the contact person in writing. The petition shall be signed by a number of voters based on the number of votes cast in that area at the last regular election held before the date written notice is given to the contact person that the petition is available equal to

(1) 25 percent of the votes cast if the area has fewer than 7,500 persons; or

(2) 15 percent of the votes cast if the area has 7,500 persons or more.